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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,407	07/09/2003	Phillip M. Santisi	8106.002.US	7945
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JAMES REMENICK			BRITTAIN, JAMES R	
NOVAK DRUCE & QUIGG, LLP			ART UNIT	PAPER NUMBER
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04/17/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/615,407	<b>Applicant(s)</b> SANTISI, PHILLIP M.
	<b>Examiner</b> JAMES R. BRITtain	<b>Art Unit</b> 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 07 January 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-9, 11-32 and 39-42 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9, 11-32 and 39-42 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 09 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sections being “in parallel two-dimensional planes” (claim 9), the “securing device comprising a plurality of flexible cords having two ends, wherein one end of each cord is connected to one or more other cords at a single position and wherein the other ends of the cords are connected to the clasp of claim 1” (claim 39) along with the single position comprising in further combination “a ring” (claim 40) or “a knot” (claim 41) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9, so far as definite, is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enablement for indicating how the sections defined in claim 1 are configured so to be "in parallel two-dimensional planes" (claim 9). Paragraph [0030] indicates that alternatively, sections may be configured in one or more parallel planes, but gives no indication of the configuration of the sections within parallel planes so as to enable one of ordinary skill to configure the device.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 17 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is incomplete as it depends from a cancelled claim 10. Claims 17 and 25 indicate that "the first section is attached to both the hook portion and the grip portion" and this limitation renders the claims indefinite because claim 1 states that "the hook portion comprising

a first section" (line 2) so that while the first section separates the second and third sections of the hook portion from the grip portion, the first section is not attached to itself since it forms a part of the hook portion so that the claim construction is misdescriptive.

***Claim Rejections - 35 USC § 102***

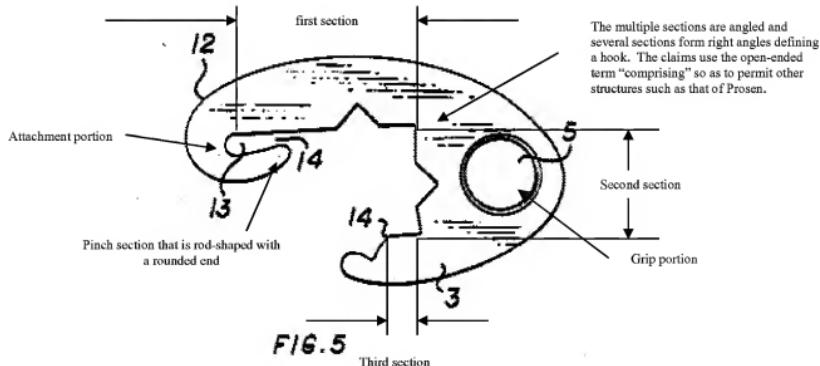
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 11, 15, 16, 18, 19, 21 and 42 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Prosen (US 5035558).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As claim 1 utilizes the open-ended language “comprising” and the pinch section identified above is rod-shaped with a rounded end thereby meeting the claim language while permitting other structure such as the flattened plate portions extending from the rod-shaped pinch section with a rounded end. Further, applicant doesn’t use --consisting-- so as to preclude any other structure such as the notches in the middle of the straight first and straight second sections.

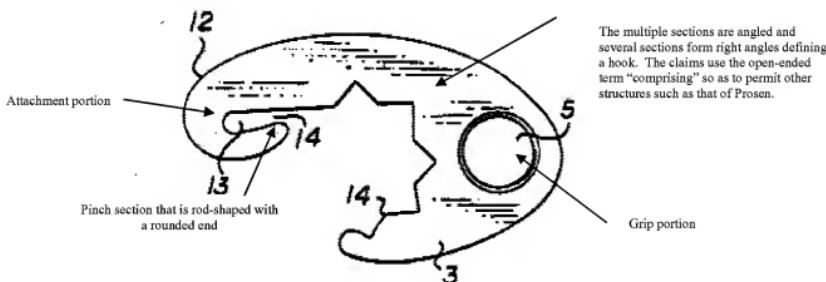
As to claims 6 and 7, these relative dimensions are formed by sections of the hook portion of Prosen’s device. In regard to claim 8, figure 6 of Prosen shows the hook portion in a single plane. As to claim 9, figure 5 shows that it is possible to configure planes perpendicular to the plane of the paper and aligned with the first and third sections. In regard to claim 11, the claims utilize the open-ended language “comprising” and the pinch section identified above is rod-shaped with a rounded end so as to meet the claim language while permitting other structure. As to claim 15, the pinch section identified above is between and therefore separates the grip portion from the attachment portion. In regard to claim 16, the pinch section identified above pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claim 18, cargo is considered equipment for a purpose. In regard to claims 21 and 42, as pointed out above there are multiple straight angled portions connected together to form a hook portion.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 12, 13, 22-24, 26-28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.

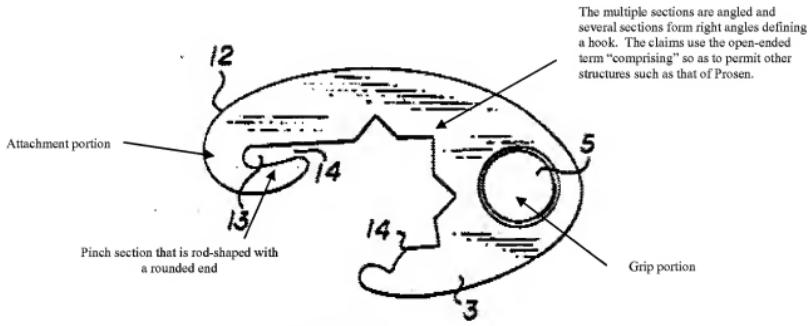


**F16.5**

Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference with regard to claim 2 is that the hook of figure 5 is an intermediate hook rather than being found at the ends of the cord. However, Chuan (figures 1-3, 5, 7) teaches that it is desirable to secure clasps with grip portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord in a similar manner to that of Prosen. As Prosen teaches that it is desirable to configure the hook portion with perpendicular portions for both the end hooks and the intermediate hooks and Chuan teaches that it is desirable to secure clasps with grip portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord, it would have been obvious to modify the end hooks of Prosen so as utilize hooks with a pinching portion at the ends as taught by Chuan while maintaining the perpendicular sections taught by Prosen since Prosen wishes to keep the angular hook portion because of its greater use in securing the clasp to various shapes. As to claim 5, the devices of Prosen and Chuan describe the typical bungee cord that is well known. In regard to claim 22, this claim is rejected for the reasons identified for claim 2 with the further observation that the pinch section identified above with respect to Prosen pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claims 12, 13, 27 and 28, Chuan teaches that the use of steel is conventional for forming the hooks as would be expected because of its strength (col. 1, lines 19-25).

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Simon (US 3328064).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



**F16.5**

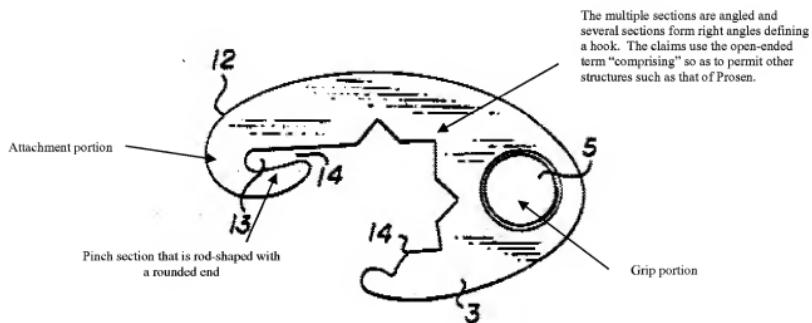
Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that while metal is stated as being a material (col. 2, lines 15-17), steel and aluminum are not stated as being used. It would have been obvious to utilize either steel or aluminum in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Simon (US 3328064).

Further modification of the metal clasp of Prosen so that the metal is aluminum would have been obvious in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Yonts (US 4842236).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



*F16.5*

Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the first section doesn't separate the grip portion from the second and third sections of the hook portion. Relocation of the grip portion of the device of Prosen so that the first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

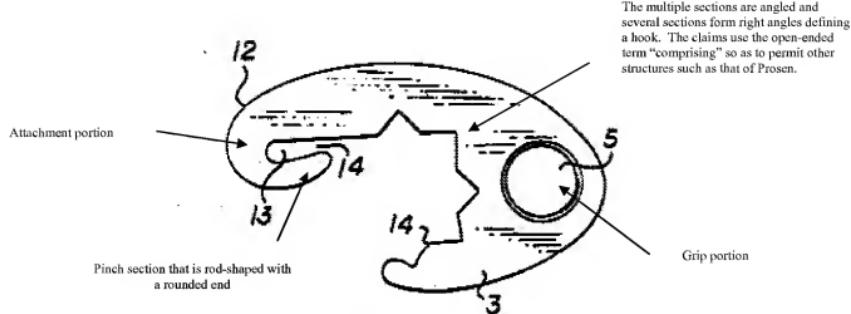
Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Yonts (US 4842236).

Further modification of the metal clasp of Prosen so that the first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Schrader (US 6113327).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third

section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



**F16.5**

Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the cargo isn't listed as a ladder. However, bungee cords are typically used for holding down many items to vehicle racks and Schrader (figure 11) shows that the cargo or equipment can be in the form of a ladder. Therefore, it would have been obvious to utilize the clasp of Prosen to secure a ladder in view of Schrader teaching such a well known use.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 30 above, and further in view of Schrader (US 6113327).

Further modification of the metal clasp of Prosen so that the clasp and bungee cord is utilized to secure a ladder would have been obvious in view of Schrader (figure 11) teaching that the cargo or equipment can be in the form of a ladder, a well known use.

Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558).

Schwab (figures 1, 2, 4) teaches a securing device comprising a plurality of cords 1, 2 having two ends apiece, wherein one end of each cord is connected to one other cord at a single position 7 and the other ends of the cords are connected to a clasp 8 to define a symmetric structure at each end. The difference is that the clasp fails to have a grip portion and the three perpendicular sections defined by claim 1. However, Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section. Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As improving the manipulation of the clasp of Schwab would be desirable as would those surfaces to which the hook portion can engage, it would have been obvious to modify the clasp of Schwab to have a grip portion and three perpendicular sections as taught to be desirable by Prosen. As to claim 41, given that Schwab joins the ends of the cord 1, 2 together in the seats of the clasp, applicant is given Official Notice that it would have been obvious to knot the ends together so as to form a better connection. As

applicant has not traversed the finding of Official Notice, this finding is made final as common knowledge taken to be admitted prior art.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558) as applied to claim 39 above, and further in view of Vasilopoulos (US 5722125).

Further modification of the device of Schwab so that a ring is used to join the ends of the cords would have been obvious in view of Vasilopoulos (figure 2) teaching the use of a ring 12 to unite the ends of cords to be desirable so as to form a securing fastener.

*Response to Arguments*

Applicant's arguments filed January 7, 2008 have been fully considered but they are not persuasive.

Applicant argues with respect to the drawing objections that one skilled in the art would understand the subject matter of claims 9 and 39-41. While this is an argument applicable to the rejections under 35 U.S.C. 112, first paragraph, the drawing requirement under 37 CFR 1.83 is to show in the figures the structure identified in claims 9 and 31-41 and applicant has failed to show this structure. The requirement remains and though applicant traversed the requirement, applicant must still provide drawings in response to this action showing the features of claims 9 and 39-41.

In regard to the rejection of claim 9 under 35 U.S.C. 112 applicant cites the paragraph [0030] as done in the office action and asserts that it alone is sufficient to enable claim 9. However, paragraph [0030] provides no actual configuration of the sections being in parallel two-dimensional planes, just a generic statement of more than one parallel plate without

elaboration. Paragraphs [0033], [0046] and [0041] and figures 1, 2 and 5 also fail to show an actual configuration that would enable one of ordinary skill to make the device of claim 9.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the description of the hook portion "consists" of three straight sections) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). There is simply no reason to view the claim language, which clearly uses the open-ended language "comprising" as precluding other structure such as the notches shown by Prosen in the middle of the first and second sections. Similarly, Prosen sets forth a clasp that "comprises" a shaped rod in that the identified portion of the clasp is a shaped rod with a rounded end. The language is simply broad and Prosen clearly has the right angles connecting the first section to the second section and the second section to the third section.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITTAINE whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Brittain/  
Primary Examiner, Art Unit 3677

JRB